

CHAPTER 9

Mutual Consideration

Lessons

- 9-1** What Is Consideration?
- 9-2** Legal Value and Bargained-For Exchange
- 9-3** When Is Consideration Not Required?

LESSON 9-1

What Is Consideration?

GOALS

- Define consideration
- Determine when there is no consideration

THREE REQUIREMENTS OF CONSIDERATION

- Each party must give an act, forbearance, or promise to the other party.
- Each party must trade what they contribute to the transaction for the other party's contribution.
- What each party trades must have legal value.

CONSIDERATION

- Act, forbearance, or promise
- Trading
- Legal value
- Adequacy of consideration
- Nominal consideration

LESSON 9-2

Legal Value and Bargained-For Exchange

GOALS

- Identify when there is legal value
- Determine when there is a bargained-for exchange

LEGAL VALUE

- Illusory promises
 - Termination clauses
 - Output and requirements contracts
 - Implied duty of fair dealings
- Existing duty
 - Existing public duty
 - Existing private duty
 - Settlement of liquidated debts
 - Settlement of unliquidated debts
 - Release
 - Composition of creditors

BARGAINED-FOR EXCHANGE

- Mutual gifts
- Past performance

LESSON 9-3

When Is Consideration Not Required?

GOALS

- Identify when promissory estoppel applies
- Discuss situations in which consideration is not needed

PROMISSORY ESTOPPEL

The following conditions must be met for promissory estoppel to apply:

- The promisor should reasonably foresee that the promisee will rely on the promise.
- The promisee does, in fact, act in reliance on the promise.
- The promisee would suffer a substantial economic loss if the promise is not enforced.
- Injustice can be avoided only by enforcement of the promise.

EXCEPTIONS TO THE CONSIDERATION REQUIREMENT

- Promises to charitable organizations
- Statute of limitations
- Uniform Commercial Code
 - Firm offers
 - Modifications